

A CITIZEN'S GUIDE
TO
WASHINGTON COURTS

Ninth Edition
2001

Previous editions of this booklet were published in 1979, 1982, 1985, 1987, 1991, 1993, and 1997 by the Office of the Administrator for the Courts, State of Washington. Annual revisions have been made since.

Note to educators:

Definitions of italicized court terms used in this booklet are included in a companion text, *A Guide to Terms Used in Washington Courts*. Hard copies are available and both texts can be downloaded from the Washington Courts Homepage at www.courts.wa.gov

Reviewed 3/01

Judicial Discipline

Washington's Commission on Judicial Conduct was established to investigate allegations of a judge's misconduct or disability. Its membership consists of two lawyers, three judges, and six non-lawyer citizens.

Any person, organization or association may submit written or oral allegations of misconduct. These are reviewed by the Commission to see if the Code of Judicial Conduct was violated or if any permanent disability exists.

Because the Commission has no authority to modify judicial decisions, objections to a particular official judicial action will not normally trigger Commission action. The Commission's power is limited to two areas: (1) misconduct, as defined by the Code of Judicial Conduct, and (2) disability which is, or likely to become, serious enough to interfere with a judge's official duties.

If misconduct is found, the Commission may admonish, reprimand, or censure the judge, or may recommend to the Supreme Court that the judge be suspended or removed. Like a trial, Commission fact-finding hearings are held in public. The Supreme Court has appellate review of the Commission's decision, or in the case of a Commission recommendation, the Court makes the final decision after reviewing the Commission's record and taking argument on the matter.

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Washington Court System

<p>THE SUPREME COURT six-year terms, staggered</p> <ul style="list-style-type: none"> ♦ Appeals from the Court of Appeals ♦ Administers state court system
<p>COURT OF APPEALS six-year terms, staggered Division I, Seattle, Division II, Tacoma Division III, Spokane</p> <ul style="list-style-type: none"> ♦ Appeals from lower courts except those in jurisdiction of the Supreme Court
<p>SUPERIOR COURT four-year terms</p> <ul style="list-style-type: none"> ♦ Civil matters ♦ Domestic relations ♦ Felony criminal cases ♦ Juvenile matters ♦ Appeals from courts of limited jurisdiction
<p>COURTS OF LIMITED JURISDICTION four-year terms district and municipal courts</p> <ul style="list-style-type: none"> ♦ Misdemeanor criminal cases ♦ Traffic, non-traffic, and parking infractions ♦ Domestic violence protection orders ♦ Civil actions of \$50,000 or less ♦ Small claims

Law Clerk -- Law clerks primarily provide research and writing assistance to the justices.

Law Librarian -- The state law librarian is appointed by the Supreme Court to maintain a complete, up-to-date law library.

How Courts are Financed

Funds to support Washington's courts come from state and local sources.

State Sources

Only a small portion of the total cost of operating state government, three-tenths of one percent, is devoted to the courts. Court operations funded directly by the state include those of the Supreme Court (including the Supreme Court Clerk's Office, the Reporter of Decisions, the State Law Library, and the Office of the Administrator for the Courts), the Court of Appeals, and half of the salaries and benefits of superior court judges.

Local Sources

As is the case at the state level, the amount spent to support local courts is small relative to expenditures made for other city and county government operations. Though local governments finance the major portion of the state's judicial system, during recent years those expenditures have represented only six percent of all funds spent by local governments. Local funds support the cost of court administration, grand juries, local law libraries, court facilities, civil process services, petit juries and witness expenses.

The clerk supplies attorneys, opposing counsel and other appropriate counsel with copies of Supreme Court briefs, and records attorney admissions to the practice of law in Washington state. The clerk also rules on costs in each case decided by the court, and may also rule on various other procedural motions. The clerk is assisted by a deputy clerk and supporting staff.

Commissioner -- The commissioner, also appointed by the court, decides those types of motions which are not required by court rule to be decided by the justices. Called *rulings*, these decisions are subject to review by the court. The commissioner also heads the court's central staff. The commissioner and other attorneys on the central staff assist the court in screening cases to determine which ones should be accepted for full hearing. The court is asked to hear more than 1,000 cases each year, though only a small portion of these can be accepted.

Court Administrator -- Washington's administrator for the courts is appointed by the Supreme Court and is responsible for the execution of administrative policies and rules in Washington's judicial system. With the assistance of a support staff, the administrator compiles court statistics; develops and promotes modern management procedures to accommodate the needs of the state's courts; studies and evaluates information relating to the operations and administrative methods of the judicial system; and provides pertinent information to the members of the judicial community, the other branches of government, and the general public. The administrator's staff also prepares and submits budget and accounting estimates relating to state appropriations for the judicial system.

Reporter of Decisions -- Appointed by the Supreme Court, the reporter of decisions is responsible for preparing Supreme Court and Court of Appeals decisions for publication. Decisions are published in weekly "advance sheets" and in the permanent volumes of *Washington Reports* and *Washington Appellate Reports*.

Visiting Our Courts

There are four levels of court in Washington: the Supreme Court, the Court of Appeals, the superior courts and courts of limited jurisdiction, or district and municipal courts.

The Supreme Court is located in Olympia in the Temple of Justice on the state capitol grounds. Courtrooms of the three divisions of the state Court of Appeals are located in Seattle, Tacoma, and Spokane. Courthouses in each of the state's 39 counties house superior court courtrooms. Each county has at least one district court and many of the state's cities and towns have a municipal court.

Though some proceedings are not open to the public, visitors are welcome to attend all others without appointment. It is usually advisable for large groups to check in advance with the court clerk, administrator, bailiff, or judge about the availability of seating and parking.

Types Of Cases

All cases filed in the courts are either *civil* or *criminal*.

Civil

Civil cases are usually disputes between private citizens, corporations, governmental bodies, or other organizations. Examples are actions arising from landlord and tenant disputes, personal injuries, breach of warranty on consumer goods, contract disputes, adoptions, marriage *dissolutions* (divorce), *probates*, guardianships, and professional liability suits.

Decisions are based upon a *preponderance of evidence*. The party suing (*plaintiff*) must prove his or her case by presenting evidence that is more persuading to the *trier of fact* (judge or jury) than the opposing *evidence*.

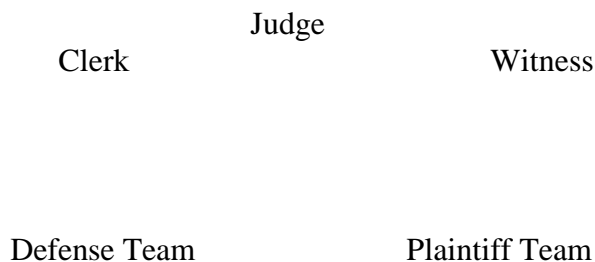
There are special court procedures for the protection of citizens threatened by harassment and domestic violence. Residents may obtain documents for requesting orders for protection by contacting the office of their county clerk.

Criminal

Criminal cases are brought by the government against individuals or corporations accused of committing a crime. The government makes the charge because a crime is considered an act against all of society. The prosecuting attorney prosecutes the charge against the accused person (*defendant*) on behalf of the government (*plaintiff*). The prosecution must prove to the judge or jury that the defendant is guilty beyond a *reasonable doubt*.

The more serious crimes are called *felonies* and are punishable by more than a year's confinement in a state prison. Examples are arson, assault, larceny, burglary, murder, and rape.

Lesser crimes are called misdemeanors and *gross misdemeanors*. Both are punishable by confinement in a city or county jail. Examples of gross misdemeanors are theft of property or services valued at up to \$250 and driving while under the influence (DUI) of alcohol or drugs. Among the many types of misdemeanors are disorderly conduct, prostitution, and possession of less than 40 grams of marijuana.



Motions to be determined by the Court, and petitions for review of Court of Appeals decisions, are heard by five-member departments of the Court. A less-than-unanimous vote on a petition requires that the entire court consider the matter.

All nine justices hear and dispose of cases argued on the appeal calendar. Each case is decided on the basis of the record, plus written and oral arguments. Exhibits are generally not allowed and no live testimony is heard.

The Supreme Court is the final rule-making authority for all of the state's courts. Though local courts make their own rules of procedure, these rules must conform to, or not conflict with, those established by the Supreme Court. In addition, the Supreme Court has administrative responsibility for operation of the state court system. It also has a supervisory responsibility over certain activities of the *Washington State Bar Association*, including attorney disciplinary matters.

Justices

The nine Supreme Court justices are elected to six-year terms. Each term is staggered to maintain continuity of the court. The only requirement for the office is that the prospective justice be admitted to the practice of law in Washington State. Vacancies are filled by appointment of the Governor until the next general election.

Court Support Personnel

Bailiff -- A court-appointed official, the bailiff announces the opening of each session of the court and performs a variety of other duties as required by the court.

Clerk -- Appointed by the court, the clerk of the Supreme Court maintains the court's records, files, and documents. The clerk is also responsible for managing the court's caseload, including the preparation of its calendars, arranging for *pro tem* (temporary) judges and docketing all cases and papers filed.

Court Support Personnel

Clerk of the Court -- Appointed by the court, the clerk is its chief administrative officer. The clerk is responsible for filings, and plans, organizes and supervises the administration of the clerk's office, manages court facilities, and sets court calendars.

Commissioner -- Judges of each division also appoint commissioners who decide some motions that come before the court. Commissioners also perform additional duties that promote the effective administration of the court.

Law Clerks -- Each judge is assisted by clerks trained in the law. The clerks research the law and assist in writing court opinions.

The Supreme Court

Jurisdiction

The Supreme Court is the state's highest court. Its opinions are published, become the law of the state, and set precedent for subsequent cases decided in Washington.

The Court has original jurisdiction of petitions against state officers and can review decisions of lower courts if the money or value of property involved exceeds \$200. The \$200 limitation is not in effect if the case involves a question of the legality of a tax, duty, assessment, toll, or municipal fine, or the validity of a statute.

Direct Supreme Court review of a trial court decision is permitted if the action involves a state officer, a trial court has ruled a statute or ordinance unconstitutional, conflicting statutes or rules of law are involved, or the issue is of broad public interest and requires a prompt and ultimate determination. *All* cases in which the death penalty has been imposed are reviewed directly by the Supreme Court. In all other cases, review of Court of Appeals decisions is left to the discretion of the court.

Trial Process

Whether the case is civil or criminal, or tried by a judge or jury in a superior, district, or municipal court, the procedure is essentially the same. There may be some differences from court to court, however.

Jury Selection

Jurors are randomly selected from voter registration lists, and lists of those who are valid driver's license or "identocard" holders. In superior courts, 12 persons are seated on a jury. In district courts, the jury consists of six or fewer people.

In district, municipal, and superior courts, jury selection is handled in the same manner. Selection, or *voir dire*, consists of questions asked of juror candidates by the judge and attorneys to determine if they have any biases that would prevent them from hearing the case. Questions can be general (directed at the whole panel) or specific (directed at specific candidates).

If an answer indicates a prospective juror may not be qualified, that individual may be *challenged for cause* by a party, through his or her attorney. It is up to the judge to decide whether the individual should be disqualified.

After questions have been asked, *peremptory challenges*--those for which no reason need be given--may be exercised by an attorney and the prospective juror will be excused. Just how many challenges may be exercised depends on the type of case being tried. How they are exercised (orally or in writing) depends upon local procedure. After all challenges have been completed, the judge will announce which persons have been chosen to serve on the case. Those not chosen are excused.

After the judge or clerk administers the oath to the jurors, the case begins. Because the plaintiff always has the *burden of proof*, his or her attorney makes the first *opening statement*.

Opening Statements

An opening statement is an outline of the facts a party expects to establish during the trial. The plaintiff opens first, then the defendant. The defendant can choose to delay making an opening statement until after the plaintiff *rests* or presents his or her evidence.

Evidence

Evidence is testimony and exhibits presented by each side that is admitted by the judge. The plaintiff presents evidence by *direct examination* of each witness, who are then subject to *cross examination* by the defendant. After plaintiff rests, the defendant presents witnesses who may be cross examined by the plaintiff's attorney.

After the defendant rests, the plaintiff may present *rebuttal* evidence. Following that, the evidentiary phase of the trial is over.

Jury Instructions

The judge then instructs the jury on how the law must be applied to that case. Jurors may be given written copies of the instructions.

Closing Arguments

Following the judge's instructions, attorneys for each party make closing arguments. As with opening statements, the plaintiff goes first. After the defendant presents closing arguments, the plaintiff is allowed time for rebuttal.

Division I

District 1: King County, from which six judges must be elected

District 2: Snohomish County, from which two judges must be elected

District 3: Island, San Juan, Skagit and Whatcom counties, from which one judge is elected

Division II

District 1: Pierce County, from which three judges are elected

District 2: Clallam, Grays Harbor, Jefferson, Kitsap, Mason and Thurston Counties, from which two judges are elected

District 3: Clark, Cowlitz, Lewis, Pacific, Skamania and Wahkiakum Counties, from which two judges are elected

Division III

District 1: Ferry, Lincoln, Okanogan, Pend Oreille, Spokane and Stevens Counties, from which two judges are elected

District 2: Adams, Asotin, Benton, Columbia, Franklin, Garfield, Grant, Walla Walla and Whitman Counties, from which one judge is elected

District 3: Chelan, Douglas, Kittitas, Klickitat and Yakima Counties, from which two judges are elected

To qualify for a position on the Court of Appeals, a person must have practiced law in Washington state for five years and, at the time of election, lived for a year or more in the district from which that position was drawn. Vacancies are filled by the Governor and the appointee serves until the next general election.

A presiding chief judge for all three divisions is elected for a one-year term. Duties of the presiding chief judge include coordination of business matters among the three divisions. Each division elects its own chief judge to handle administrative details at the division level.

Jury Deliberations

After closing arguments, the bailiff or other court-designated person escorts the jury to the jury room to begin deliberations. While deliberating, jurors are not allowed to have contact with anyone, except as designated by the court.

Criminal Sentencing

In Washington, superior court judges make sentencing decisions under a *determinate* sentencing system.

Under the determinate sentencing system, offenders convicted of felony crimes are sentenced according to a uniform set of guidelines. The guidelines structure, but do not eliminate, a sentencing judge's discretion. The purpose of the system is to assure that those sentenced for similar crimes, and who have comparable criminal backgrounds, receive similar treatment.

The guidelines are based on...

....*seriousness of the offender's crime(s)*

....*the offender's criminal history*

A judge can depart from these guidelines but only if compelling circumstances exist. Only sentences imposed outside of the guidelines can be appealed.

All convictions, adult or juvenile, include mandatory penalty assessments, which are deposited in the state's victim compensation fund. A judge may also order the offender to make restitution to victims for damages, loss of property and for actual expenses for treatment of injuries or lost wages.

Those convicted of misdemeanors may be given probation and/or time in a local jail. Violating the terms of probation can result in a longer jail term.

Crime Victims and Witnesses

State law “ensure(s) that all victims and witnesses of crime are treated with dignity, respect, courtesy, and sensitivity; and that rights extended (to them) are honored and protected...in a manner no less vigorous than the protection afforded criminal defendants.”

The law lists nine rights of crime victims and witnesses, and in some cases, their families. These include the right to be told about the outcome of a case in which they were involved, and to be notified in advance if a court proceeding at which they were to appear has been canceled.

If threatened with harm, victims and witnesses have the right to protection. They also have the right to prompt medical attention if injured during the commission of a crime. While waiting to testify, they must be provided with a waiting area away from the defendant and the defendant's family and friends.

Stolen property is to be returned quickly. Criminal justice system personnel are expected to help victims and witnesses work out employment-related problems that might arise during the periods of time they are involved in the trial.

Alternative Dispute Resolution

Many disputes do not have to be resolved in an open, public court setting. “Alternative dispute resolution” (ADR) offers a variety of ways to resolve disputes in lieu of an official trial. ADR can be conducted in any manner to which the parties agree--it can be as casual as a discussion around a conference table, or as structured and discreet as a private court trial.

Advantages to solving conflicts through ADR include decreased litigation costs, and an expedited outcome. The most commonly used techniques are *mediation* and *arbitration*.

The Court of Appeals

Jurisdiction

Most cases appealed from superior courts go directly to the Court of Appeals. It is a non-discretionary appellate court--it must accept all appeals filed with it. The Court of Appeals has authority to *reverse* (overrule), *remand* (send back to the lower court), *modify*, or *affirm* the decision of the lower court.

The court decides each case after reviewing the transcript of the record in the superior court and considering the arguments of the parties. Generally, the court hears oral arguments in each case but does not take live testimony.

Appellate Process

Most cases appealed from superior courts go directly to the Court of Appeals, though certain, specific types of cases go directly to the Supreme Court (see Supreme Court).

Divisions

The Court of Appeals is divided into three divisions. As shown on the map on page 18, each division serves a specific geographic area of the state. Division I, located in the One Union Square Building in downtown Seattle, has 10 judges. Division II in Tacoma has seven judges. Division III has five judges and is located in downtown Spokane.

Judges

The 22 judges on the Court serve six-year staggered terms to ensure that all judges are not up for reelection at the same time. Each division is divided into three geographic districts and a specific number of judges must be elected from each. The divisions are divided as shown on the next page.

Mediation

Mediation is a confidential, voluntary, non-binding process which uses a neutral third party to guide parties towards a mutually beneficial resolution of their disagreement. Resolutions are created to suit both parties, and may include an agreement not available via the court system.

The mediator does not impose his or her will or judgment on the parties, but helps them decide for themselves whether to settle, and on what terms. The mediator is a catalyst, helping parties reach agreement by identifying issues, exploring possible bases for agreement, and weighing the consequences of not settling.

Mediation works well in one-on-one disputes and in large, multi-group conflicts. It is effective in all types of civil matters, and may occur before or after the filing of a lawsuit. Although attorneys may be present during the mediation process, they are not essential to the process.

Arbitration

In arbitration, a neutral third party is chosen to hear both sides of the case, then resolves it by rendering a specific decision or award. Arbitration is a common way of solving disputes with insurance companies on specific claims.

An arbitration proceeding is similar to a regular court trial. The main difference is that arbitration can be either binding or non-binding, as agreed in advance by the disputing parties. If binding arbitration has been chosen, the decision or award is final.

In Washington counties with a population of 70,000 or more, the superior court may require mandatory arbitration of some civil actions, usually those in which the sole relief sought is a money judgment. Unlike voluntary arbitration, mandatory arbitration operates under the authority of the court system. By law, it can only be used to settle disputes of \$35,000 or less.

Court Organization

Courts of Limited Jurisdiction

Jurisdiction

Courts of limited jurisdiction include district and municipal courts. District courts are county courts. Municipal courts are those created by cities and towns.

More than two million cases are filed annually in district and municipal courts. Excluding parking infractions, seven out of every eight cases filed in all state courts are filed at this level. This is due primarily to the broad jurisdiction these courts have over traffic violations and misdemeanors.

Appeal

When the judge is an attorney, cases are appealed from courts of limited jurisdiction on the basis of an electronic tape recording of the original proceeding. Appeals heard *de novo* (or anew) in superior court are limited to those cases tried originally by a non-attorney judge or in a court not required to record its proceedings. Appeals from small claim cases are heard *de novo* in superior court.

District Courts

District courts have jurisdiction over both criminal and civil cases. They have criminal jurisdiction over misdemeanors, gross misdemeanors, and criminal traffic cases. These include driving while under the influence of intoxicating liquor or drugs (DUI), hit-and-run, and driving with a suspended driver's license.

Commissioner -- Some courts employ court commissioners to ease the judges' caseload. Court commissioners are usually attorneys licensed to practice in Washington. Working under the direction of a judge, court commissioners assume many of the same powers and duties of a superior court judge. Matters heard by the court commissioner include probate, uncontested marriage dissolutions, the signing of court orders for uncontested matters, and other judicial duties as required by the judge. The state constitution limits each county to no more than three court commissioners.

Court Administrator -- Many superior courts employ court administrators. Their functions vary, depending upon the policies of the court served. Generally, the court administrator is responsible for notification of jurors, supervision of court staff, assisting the presiding judge in budget planning for the court, assignment of cases, and implementation of general court policies.

Juvenile Court Administrator -- The juvenile court administrator directs the local juvenile court probation program and provides general administrative support to the juvenile division of superior court. Each of the state's 33 juvenile courts is unique in the range and diversity of programs and services it offers, though all offer some type of diagnostic and diversion services. A number of juvenile court administrators direct county-level detention programs.

Generally appointed by judges of the superior court, in several counties judges have transferred this responsibility to the county legislative authority.

Court Reporter -- Stenographic notes are taken in court by a court reporter as the record of the proceeding. Some court reporters assume additional duties as secretary to one or more judges.

Judges

Superior court judges are elected to four-year terms. Vacancies between elections are filled by appointment of the Governor, and the newly-appointed judge serves until the next general election. To qualify for the position, a person must be an attorney admitted to practice in Washington.

There is a presiding judge in each county or judicial district who handles specific administrative functions and acts as spokesperson for the court. Duties of the presiding judge vary from county to county.

Superior court judges belong to an organization, established by law, called the *Superior Court Judges' Association*. Specific committees of the association work throughout the year to improve the court system and to communicate with other court levels, the Legislature, bar associations, the media, and the public. Officers of the organization are elected each year at the association's annual spring conference.

Court Support Personnel

Bailiff -- Responsibilities and designation of a court bailiff vary from one court to another, depending upon the needs of the court served. The bailiff's primary duties are to call the court to order, maintain order in the courtroom, and attend to the needs of jurors. In some counties, bailiffs with legal training serve as legal assistants to the judge.

County Clerk -- The county clerk is an elected official who maintains the court's official records and oversees all record-keeping matters pertaining to the operation of the courts. Among other things, the county clerk may be responsible for notification of jurors, maintenance of all papers and exhibits filed in cases before the court, and preparation of minutes of court procedures.

Preliminary hearings for felony cases are also within the jurisdiction of these courts. With the exception of DUI and some game violations, those convicted of criminal offenses may be sentenced up to \$5,000 in fines, a year in jail, or both.

Jurisdiction in civil cases includes, among others, damages for injury to individuals or personal property and penalty and contract disputes in amounts of up to \$50,000. District courts also have jurisdiction over traffic and non-traffic *infractions*, a civil proceeding for which a monetary penalty--but no jail sentence--may be imposed. District courts may also issue domestic violence and anti-harassment protection orders. They also have jurisdiction to hear change-of-name petitions and certain lien foreclosures.

Small claims are limited to money claims of up to \$2,500. These are filed and heard in district court. Generally, each party is self-represented--attorneys are not permitted except with the permission of the judge. Witnesses may not be subpoenaed.

Examples of cases heard: neighborhood disputes, consumer problems, landlord/tenant matters and small collections. The district court clerk can provide specific information about filing a claim.

Municipal Courts and Traffic Violation Bureaus

Violations of municipal or city ordinances are tried in municipal courts and in traffic violation bureaus, or "TVBs." Some cities contract with district courts to handle such cases. As in district courts, a judge may impose fines up to \$5,000, a year in jail, or both.

TVBs have the same jurisdiction as municipal courts or that provided by city statutes.

Judges

District court judges are elected to four-year terms. Municipal court judges may be elected or appointed, depending on the statutory provisions under which they were established.

Judges of courts of limited jurisdiction belong to the *District and Municipal Court Judges' Association*. The association was created by state statute to study and make recommendations concerning the operation of courts served by its members.

Court Support Personnel

Courts of limited jurisdiction are served by administrative support staff. Under the direction of the presiding judge, the staff is responsible for maintaining the court's fiscal and administrative records.

Superior Courts

Jurisdiction

Because there is no limit on the types of civil and criminal cases heard, superior courts are called *general jurisdiction* courts. Superior courts also have authority to hear cases appealed from courts of limited jurisdiction.

Most superior court proceedings are recorded so a written record is available if a case is appealed. Appellate courts can then properly review cases appealed to them. Some superior courts use video recordings instead of the customary written transcripts prepared by court reporters.

Appeals

Appeals may be made to the Court of Appeals. In some cases, they go directly to the Supreme Court.

Juvenile

Juvenile court is a division of the superior court, established by law to deal with youths under the age of 18 who commit offenses (offenders) or who are abused or neglected (dependents). Like adults, juvenile offenders are sentenced according to a uniform set of guidelines. Taking into account the seriousness of the offenses committed and the history of the subject's prior offenses, the guidelines establish a range of sentences, and sentence conditions.

A juvenile sentence or *disposition* outside the standard range is possible if the court finds the standard disposition would amount to a "manifest injustice," to the juvenile or to the community. Dispositions within the standard range are not appealable; manifest injustice dispositions are.

Dependent children are usually placed under the care of the state's Department of Social and Health Services (DSHS). Courts frequently place such children outside the home for varying periods of time.

Districts

All superior courts are grouped into single or multi-county districts. There are 30 such districts in Washington state. Counties with large populations usually comprise one district, while in less-populated areas, a district may consist of two or more counties. A superior court is located in each of Washington's 39 counties. In rural districts, judges rotate between their counties as needed. Each county courthouse has its own courtroom and staff.